

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND TENTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 1980 to June 19, 1981

AND AT THE

FIRST SPECIAL SESSION
August 3, 1981

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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

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ONE HUNDRED AND TENTH LEGISLATURE

1981

CHAPTER 2

S. P. 18 — L. D. 16

AN ACT to Amend the Law Relating to Engineers to Provide for a Biennial Publication of a Roster of Registered Professional Engineers.

Be it enacted by the People of the State of Maine, as follows:

32 MRSA § 1309, as reenacted by PL 1979, c. 541, Pt. A, § 206, is repealed and the following enacted in its place:

§ 1309. Roster of registered engineers

A roster showing the names and places of business of all registered professional engineers shall be prepared by the secretary of the board during the first calendar quarter of each even-numbered year. A supplementary roster of newly registered professional engineers shall be prepared by the secretary of the board during the first calendar quarter of each odd-numbered year. Copies of the roster and of the supplementary roster shall be mailed to each person listed therein, placed on file with the Secretary of State and furnished to the public upon request.

Effective September 18, 1981

CHAPTER 3

H. P. 485 — L. D. 489

AN ACT to Prohibit Suppliers from Reducing or Discontinuing Supplies of Petroleum Products to Maine Customers.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the reduction or discontinuance of petroleum product supplies to the State threatens the health, safety and welfare of Maine citizens; and

Whereas, such a reduction or discontinuance may occur immediately after the repeal of federal legislation controlling the price and allocation of crude oil and petroleum products; and

Whereas, decontrol of crude oil and petroleum products may occur by the end of January, 1981, ahead of the scheduled date of September 30, 1981; and

Whereas, the State does not have the authority to prohibit suppliers from reducing or discontinuing petroleum product supplies to Maine; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine, as follows:

10 MRSA § 1458 is enacted to read:

§ 1458. Emergency Petroleum Products Supply Act

1. Purpose and findings. The reduction or discontinuance of petroleum supplies to customers in the State creates severe economic dislocations and hardships and threatens the public health, safety and welfare. The purpose of the Emergency Petroleum Products Supply Act is to preserve the existing marketing and distribution system in the State and to avert or minimize the hardships to Maine citizens associated with supply reductions or discontinuances.

2. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Bulk purchaser" means any firm which is an ultimate consumer which, as part of its normal business practices, purchases or obtains petroleum products from a supplier and receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location, excluding tanks used for residential or commercial heating and vehicular tanks.

B. "Customer" means any distributor, wholesaler, jobber, consignee, commission agent, retailer, bulk purchaser or other person who purchases petroleum products from a supplier.

C. "Monthly allocation" means the monthly amount of petroleum products sold or otherwise supplied to Maine customers based upon contractual agreements, upon purchases during a specified base period or upon some other factor.

D. "Petroleum products" means all petroleum products used for or in connection with vehicular transportation, including aircraft or heating purposes, including gasoline, unleaded gasoline, gasohol, kerosene, #1 and #2 heating oils, diesel fuel, kerosene base jet fuel, aviation gasoline, #4, #5 and #6 residual oil, Bunker C, propane, butane and liquified petroleum gases.

E. "Supplier" means any person who sells, markets or distributes refined petroleum products to Maine distributors, wholesalers, jobbers, consignees, commission agents, retailers or other persons who purchase or otherwise acquire possession of or an interest in petroleum products from a supplier for resale or for use by a bulk purchaser.

F. "To discontinue" means the failure or refusal of a supplier to sell a monthly allocation to a customer for a period of 2 consecutive months, unless the failure or refusal is the direct and proximate result of causes not reasonably within the control of the supplier.

G. "To reduce" means the failure or refusal of a supplier to deliver at least 75% of a monthly allocation to a Maine customer for a period of 2 consecutive months, unless the failure or refusal is the direct and proximate result of an allocation percentage factor applied by the supplier to all its customers or causes not reasonably within the control of the supplier.

3. Prohibited acts. The following are prohibited acts.

A. It is unlawful for any supplier who does not meet the requirements of subsection 4 to:

(1) Discontinue monthly allocations of petroleum products to a Maine customer, his successors in interest or qualified assigns, provided that the successors in interest or qualified assigns meet the supplier's usual contract terms for its other customers; or

(2) Reduce monthly allocations of petroleum products to a Maine customer, his successors in interest or qualified assignees, provided that the successors in interest or qualified assigns meet the supplier's usual contract terms for its other customers.

B. This prohibition applies in all cases except:

(1) In the event of failure by any Maine customer to comply with the requirements imposed upon him by his contract with the supplier;

(2) In the event of circumstances not reasonably within the control of the supplier; or

(3) In the event of requirements regulating allocations of petroleum products imposed by an agency of the Federal Government.

4. Waiver. A supplier is authorized to reduce or discontinue monthly allocations of petroleum products to any Maine customer if the supplier:

A. Furnishes the Maine customer with a reliable alternative source of monthly allocations of petroleum products of equal type, grade, quantity and equivalent delivery location; or

B. Agrees to supply the Maine customer with monthly allocations of petroleum products for a period of 12 months and furnishes the customer and the Governor with written notice of its intention to discontinue or reduce the allocations at least 12 months in advance of the discontinuance or reduction.

5. **Right of action; injunction; damages.** Whenever the Attorney General, after complaint has been filed by any person alleging injury under this section or upon his own initiative, after investigation, believes any supplier has violated, or is knowingly in violation of, the provisions of this Act, he shall bring an action to enjoin the violation in any Superior Court of the State. Additionally, any person, who is injured in his business or property by a violation of this Act, may bring an action to enjoin the violation and to recover all damages sustained thereby, including costs of suit and a reasonable attorney's fee, in any Superior Court of the State. In an action for money damages, the court or jury may award punitive damages, not to exceed 3 times the actual damages, if the violation is found to be willful.

6. **Termination.** This section terminates on April 1, 1981.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective January 29, 1981

CHAPTER 4

S. P. 22 — L. D. 20

AN ACT Providing for the Maine State Housing Authority Financing of Intermediate Care Facility Group Homes for the Retarded and Persons with Related Conditions.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the current needs of the mentally retarded population should, on the basis of law, court order and good judgment, be responded to as quickly as possible; and

Whereas, changes in the Maine State Housing Authority law would help to achieve the maximum use of all resources to create appropriate community residences for Maine's deinstitutionalized population; and

Whereas, the proposed changes would create significant fiscal benefits to the State; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following